



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 06246-98

4 November 1999

[REDACTED] USN

Dear Lieutenant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

Your request to amend your Officer Data Card (ODC) by removing a billet title (assistant port services) was not considered, since your ODC is not part of your official naval record.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 9 and 23 February 1999, copies of which are attached. The Board also considered your letter dated 26 April 1999.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the advisory opinion dated 9 February 1999 in finding that the contested fitness report should stand. Assuming the reporting senior was aware that you had filed a complaint against him with the Naval Inspector General, the Board was unable to find that the contested report was in reprisal for that complaint. Since the Board found no defect in your performance record, they had no basis to remove your failures by the Fiscal Year 99 and 00 Line Lieutenant Commander Selection Boards. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and

material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

**5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000**

624698

1611
NPC-311
9 February 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: NPC/BCNR Coordinator (Pers-00XCB)

Subj: [REDACTED] USN [REDACTED]

Ref: (a) BUPERSINST 1611.17
(B) Inspector General's ltr 941375 Ser 01/3916 of 11 OCT 95

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 30 June 1994 to 29 November 1994.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report in question to be on file. The report reflects the member's signature acknowledging the contents of the report and his right to make a statement in accordance with reference (a).

b. The member alleges that the fitness report in question was a form of reprisal due to his involvement in the Navy Inspector General investigation concerning harassment, maltreatment, and unfair practices experienced under the leadership of [REDACTED], who was his reporting senior. He also alleges that he was forced into calling his detailer for transfer.

c. The contents of the report, marks, comments and recommendations represent the judgement and appraisal responsibility of the reporting senior for a specific period of time. They are not required to be consistent with previous or subsequent reports, and are not routinely open to challenge.

d. As stated in reference (b), all allegations of reprisal, harassment, and maltreatment were found to be unsubstantiated. The investigation did determine that the Commanding Officer did use inappropriate language and appropriate administrative action had been taken.

e. Although the member alleges reprisal and provides supportive statements with his petition, he does not prove the report in question to be unjust or in error.

3. We recommend retention of the report as written.
4. We recommend the member's petition be forwarded to the Medal and Awards section (NPC 312) for comments on the member's request for awards and to Fleet Support Branch (NPC-4419) concerning the member's request for transfer to that community.

A large, dark, rectangular redacted area covering the signature of the official.

HEAD, PERFORMANCE
EVALUATION BRANCH



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

6246-98

5420

Ser 85/033

23 Feb 99

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: [REDACTED] USN [REDACTED]

Ref: (a) NPC-311 memo 1611 of 9 Feb 99

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending disapproval of Lieutenant [REDACTED] request to remove his fitness report for the period 30 June 1994 to 29 November 1994 or any consideration for removal of his failure of selection resulting from the FY99 Active Lieutenant Commander Unrestricted Line Promotion Selection Board.

2. Retention of the original fitness report for the period above has been addressed by reference (a).

3. Lieutenant [REDACTED] request for removal of the fitness report in question or consideration for removal of his failure of selection cannot be supported. Despite the administrative action that has been taken regarding the time period in question, the fitness report, as discussed in reference (a), remains valid. Further, removal of the stated fitness report does not improve the overall competitiveness of his record when compared to the records of his peers, therefore, recommend disapproval of his request.

[REDACTED]
[REDACTED]
[REDACTED]
BCNR Liaison, Officer Promotions
and Enlisted Advancements Division